

UNITED STATES DISTRICT COURT

for the
District of Maryland

Kristopher Prusin

Plaintiff

v.

Canton's Pearls, LLC, et al.

Defendant

Civil Action No. 16-605 JKB

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Paychex, Inc.

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Notice of Deposition Subpoena Duces Tecum. DEPONENT MAY MAIL RECORDS IN LIEU OF APPEARANCE AT DEPOSITION. (You may redact social security numbers from any of the requested documents).

Place: Howard B. Hoffman, Esq.
600 Jefferson Plz., Ste. 304
Rockville, MD 20852

Date and Time:

11/03/2016 2:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/14/2016

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Kristopher Prusin, who issues or requests this subpoena, are:

Howard B. Hoffman, Esq., Atty at Law, 600 Jefferson Plaza, Ste. 304, Rockville, MD 20852

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 16-605 JKB

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE U.S. DISTRICT COURT OF MARYLAND
FOR DISTRICT OF MARYLAND**

Kristopher Prusin

*

Plaintiff

*

v.

*

Case No. JKB 16-605

**Canton's Pearls, LLC
(t/a "Canton Dockside"), et al.**

*

*

Defendants

*

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NOTICE OF DEPOSITION SUBPOENA DUCES TECUM

PLEASE TAKE NOTICE that on the date and time noted below in the law offices of Howard B. Hoffman, Esq., 600 Jefferson Plaza, Suite 304, Rockville, Maryland 20852, the undersigned will take the deposition of the individual identified below before a Notary Public authorized to administer oaths, such deposition to be taken in accordance with and for purposes of discovery or for use as evidence or both. The deposition will proceed throughout the day and from day to day until concluded.

PERSON TO BE DEPOSED:

DATE:

TIME:

Custodian of Records

November 3, 2016

2:00 p.m.

Corporate Designee

Paychex, Inc.

Serve On:

Corporation Trust Inc.

351 West Camden Street

Baltimore, Maryland 21201

DEPONENT MAY MAIL RECORDS IN LIEU OF APPEARANCE AT DEPOSITION.

Deponent is required to produce the following documents:

All documents concerning:

- (1) All payroll records for the years 2013, 2014, and 2015 for Canton's Pearls, LLC.
- (2) All IRS Form 940 for 2013, 2014, and 2015 for Canton's Pearls, LLC.
- (3) All IRS Form 941 for 2013, 2014, and 2015 for Canton's Pearls, LLC.
- (4) All IRS Forms 944 for 2013, 2014, and 2015 for Canton's Pearls, LLC.
- (5) All documents relating to the taking of any credit under Section 45B of the Internal Revenue Code.
- (6) All IRS Form W-2s for 2013, 2014, and 2015 for Canton's Pearls, LLC.
- (7) All documents which were provided to you by or on behalf of Canton's Pearls, LLC at any time during the period from January 1, 2013 to December 31, 2015;
- (8) All contracts or agreements with Canton's Pearls, LLC.

A subpoena commanding your attendance is attached.

Definitions

For purposes of this Deposition Subpoena Duces Tecum, the following definitions apply:

1. *Communication*: The term "communication" means the transmittal of information by any means.
2. *Concerning*: The term "concerning" means relating to, referring to, describing, evidencing, or constituting.
3. *Document*: The terms "document" and "documents" are defined to be synonymous in meaning and equal in scope to the usage of the term "documents" in Fed. R. Civ. P. 34(a) and include(s) the term "writing". Unless the producing party demonstrates undue burden or other grounds sufficient to meet the requirements of Fed. R. Civ. P. 26(c), electronic mail is included within the definition of the term "document". The terms "writings", "recordings", and "photographs" are defined to be synonymous in meaning and equal in scope to the usage of those terms in Fed. R. Evid. 1001. A draft or non-identical copy is a separate document within the meaning of the term "document".

4. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all"; "any" means "any and all." "Including" means "including but not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine or neuter form shall include each of the other genders.

5. If the requested documents are maintained in a file, the file folder is included in the request for production of those documents.

Respectfully submitted,



Howard B. Hoffman, Esq.
Attorney at Law
Federal Bar No. 25965
600 Jefferson Plaza, Suite 304
Rockville, Maryland 20852
(301) 251-3752
(301) 251-3753 (fax)

Attorney for Plaintiff

October 14, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2016, a copy of the foregoing Notice of Deposition Subpoena Duces Tecum of Paychex, Inc., was mailed via U.S. first class, postage prepaid, to the following Attorney for the Defendants:

Christopher T. Staiti, Esq.
Staiti & DiBlasio, LLP
401 Headquarters Drive, Ste. 202
Millersville, Maryland 21108


Howard B. Hoffman